

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

David Marsh,)	FILED: OCTOBER 10, 2008
)	08CV5831
Plaintiff,)	JUDGE KENDALL
)	MAGISTRATE JUDGE BROWN
v.)	BR
)	No.
NCO Financial Systems, Inc.,)	
)	
Defendant.)	<u>Jury Demanded</u>

COMPLAINT

Plaintiff, David Marsh, brings this action for damages against Defendant, NCO Financial Systems, Inc., for its violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

JURISDICTION AND VENUE

1. The jurisdiction of the Court is invoked as authorized by § 1692k(d) of the FDCPA and 28 U.S.C. § 1331.
2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant attempted to collect a consumer debt from Plaintiff here.

PARTIES

3. Plaintiff, David Marsh, is a citizen of the State of Illinois residing in the Northern District of Illinois from whom Defendant tried to collect a consumer debt.
4. Defendant, NCO Financial, Inc. is a Pennsylvania corporation headquartered in Horsham, Pennsylvania. NCO Financial is a debt collector under § 1692a(6) of the FDCPA because it regularly collects debts owed or due, or asserted to be owed or due, to others.

FACT ALLEGATIONS

5. On or about July 11, 2008, Marsh received a voicemail message on his wireless telephone from NCO Financial. In the message, the caller identified himself as “Mr. Golshick” [phonetic spelling] from NCO Financial, said this was an “important and confidential message” for Marsh, stated that Marsh needed to get back to him at toll-free number, and instructed Marsh to refer to an “ID code”. In the message, Mr. Golshick did not disclose that the message was from a debt collector.

6. On or about July 11, 2008, Marsh telephoned NCO Financial and informed the NCO Financial representative with whom he spoke that he was represented by an attorney and instructed NCO Financial to contact his attorney, not Marsh.

7. After July 11, 2008, Marsh received a letter from NCO Financial which claimed NCO Financial had been requested by American Express to assist American Express in the collection of an alleged outstanding balance. This letter was dated July 10, 2008. See Exhibit A.

8. On or about July 16, 2008, Marsh’s attorney, James Shedden, received a voicemail message on his phone. In the message, the caller identified himself as “Golshick” [phonetic spelling] from NCO Financial and stated he was calling Shedden in regard to “a mutual client”. He stated Shedden needed to “get back to [him] on [his] toll-free number” and provided an ID code for Shedden to refer to. In the message, Golshick did not disclose that the communication was from a debt collector.

9. On or about July 17, 2008, Shedden telephoned NCO Financial in response to the July 16th voice message left for him by Golshick. Shedden provided the ID code from the voice message and was connected to Golshick Vakharia. In this conversation, Shedden informed Vakharia that Marsh disputed the validity of the debt, that other debt collectors previously had

tried to collect the debt, and that Marsh disputed the validity of the debt to these other debt collectors. Vakharia admitted that Marsh was not a client of NCO Financial.

COUNT I
Violation of § 1692e of the FDCPA

10. Marsh adopts and realleges the allegations contained in ¶¶ 1-8.

11. The FDCPA prohibits a debt collector from making false, misleading or deceptive representations in connection with the collection of any debt. See 15 U.S.C. § 1692e. It is false, misleading or deceptive for a debt collector to fail to disclose to the consumer in the initial communication with the consumer that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose. See 15 U.S.C. § 1692e(11). The debt collector also must disclose in subsequent communications that the communication is from a debt collector. See 15 U.S.C. § 1692e(11).

12. NCO Financial's first communication with Marsh was the July 11, 2008 voicemail message left on Marsh's cellular phone by Mr. Golshick. This message did not disclose that that the caller was a debt collector attempting to collect a debt and that any information obtained would be used for that purpose.

13. NCO Financial falsely, misleadingly and deceptively left a voicemail message for Marsh's attorney that falsely stated Marsh was a "mutual client" of NCO Financial's and Marsh's attorney. The message did not disclose that the communication was from a debt collector.

14. NCO Financial's violation of §§ 1692e and 1692e(11) of the FDCPA renders it liable to Marsh for damages, costs and attorneys fees. See 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, David Marsh, prays that this Court:

- a. Enter judgment in favor of Plaintiff, and against NCO Financial, for statutory damages, actual damages, costs and attorneys' fees;
- b. Enjoin NCO Financial from attempting to collect the alleged debt and from reporting the alleged debt on Plaintiff's credit report; and
- c. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff demands a jury trial on all claims.

David Marsh

s/ Katherine A. Hathaway
One of Plaintiff's Attorneys

Dated: October 10, 2008

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Calls to or from this company may be monitored
or recorded for quality assurance.

EO2857
DAVID MARSH
3110 N SHERIDAN RD
APT 1707
CHICAGO, IL 60657-4943

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NCO FINANCIAL SYSTEMS INC

507 Prudential Road, Horsham, PA 19044

American Express
200 Vesey Street, 44th Floor
New York, NY 10285
800-350-2457
OFFICE HOURS:
8AM-9PM MON THRU THURSDAY
8AM-5PM FRIDAY
8AM-12PM SATURDAY
Jul 10, 2008

CREDITOR: AMERICAN EXPRESS (US)
CREDITOR'S ACCOUNT #: 371325804251009
REGARDING: CID499637469016USD
CURRENT BALANCE DUE: \$1393.14

Please be advised that we have been requested by AMERICAN EXPRESS (US) to assist them in the collection of the amount set forth above.

You may contact us at 800-350-2457 if you have any questions or if you would like to discuss this matter further.

You may also make payment by visiting us online at www.ncofinancial.com. Your unique registration code is CEO28570-72SE31.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgement or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT (MAKE SURE ADDRESS SHOWS THROUGH WINDOW)

Our Account #	Current Balance Due
EO2857	\$ 1393.14

DAVID MARSH

Payment Amount

\$

Check here if your address or phone number has
changed and provide the new information below.

Make Payment To:



NCO FINANCIAL SYSTEMS

PO BOX 15773

WILMINGTON DE 19850-5773

NCO K

010700E0285790000000700000000001393141

